

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

WILLIAM ERRICO, et al.,

Plaintiff(s),

vs.

STATE BAR OF NEVADA, et al.,

Defendant(s).

Case No. 2:16-cv-01159-APG-NJK

ORDER

(Docket No. 71)

Pending before the Court is Defendants' motion to stay discovery pending resolution of their motion to dismiss. Docket No. 71; *see also* Docket No. 62 (motion to dismiss). Plaintiffs filed a response in opposition, and Defendants filed a reply. Docket Nos. 72-73. The Court finds the motion to stay properly resolved without a hearing. *See* Local Rule 78-1.

The case law in this District makes clear that requests to stay all discovery may be granted when: (1) the pending motion is potentially dispositive; (2) the potentially dispositive motion can be decided without additional discovery; and (3) the Court has taken a "preliminary peek" at the merits of the potentially dispositive motion and is convinced that the plaintiff will be unable to state a claim for relief. *See Kor Media Group, LLC v. Green*, 294 F.R.D. 579, 581 (D. Nev. 2013).¹ The Court finds that each

¹ Conducting the preliminary peek puts the undersigned in an awkward position because the assigned district judge who will decide the motion to dismiss may have a different view of its merits. *See Tradebay, LLC v. eBay, Inc.*, 278 F.R.D. 597, 603 (D. Nev. 2011). The undersigned's "preliminary peek" at the merits of that motion is not intended to prejudice its outcome. *See id.*

1 of these requirements has been met here. Therefore, the Court concludes that discovery should be stayed
2 pending resolution of the motion to dismiss.

3 For the reasons outlined above, Defendants' motion to stay discovery is **GRANTED**. To the
4 extent the motion to dismiss is not granted in full, the parties shall file a joint statement regarding
5 whether and how discovery should proceed. That joint statement shall be filed within 14 days of the
6 issuance of the order resolving the motion to dismiss.

7 IT IS SO ORDERED.

8 DATED: March 15, 2017

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NANCY J. KOPPE
United States Magistrate Judge